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DOA:.....Quinn, BB0026 – Transfer regulation of charitable organizations, professional fundraisers, and fundraising counsel from DSPS to DFI

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

Insert

D-Note

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do not gen
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

SAFETY AND PROFESSIONAL SERVICES

PROFESSIONAL REGULATION

Under current law, DSPS regulates professional employer organizations and professional employer groups that contract with clients for, among other services, the nontemporary placement of employees with those clients. Also under current law, DSPS regulates the fund-raising activities of charitable organizations, professional fund-raisers, and fund-raising counsel.

This bill transfers the regulation of professional employer organizations, professional employer groups, charitable organizations, professional fund-raisers, and fund-raising counsel from DSPS to DFI. Under the bill, DFI registers all of those persons and administers the specific laws governing their practices. The bill also gives DFI a number of general powers and duties concerning the regulation of those persons that are similar to the powers and duties that DSPS exercises under current law with respect to the various professions DSPS, or a board under DSPS, regulates, including the following:

1. Under the bill, DFI may issue subpoenas for the attendance of witnesses and the production of documents or other materials before a disciplinary or other proceeding concerning a practice regulated by DFI under the bill.

2. Under the bill, DFI is required to establish the content and form of each type of registration it issues to a professional employer organization, professional employer group, charitable organization, professional fund-raiser, or fund-raising counsel, and DFI may require a registered person to display in the person's office or primary place of business the person's certificate of registration and a notice describing the procedures for filing a complaint with DFI concerning the person's professional conduct.

3. The bill requires DFI to obtain the social security number of an individual who applies for a registration under the bill, or the person's federal employer identification number if the person is a business. The bill restricts DFI's use and disclosure of social security numbers, as well as other personal identifying information under certain circumstances, that DFI obtains in connection with its regulatory functions under the bill.

4. Concerning the renewal of a registration, the bill requires DFI to give notice to the registered person before the registration's renewal date, and DFI may deny renewal if the registered person fails to comply with any applicable renewal requirement or if DFI determines that denial of the renewal application is necessary to protect the public health, safety, or welfare. If DFI denies an application for renewal of a registration, DFI must send a notice of denial to the registered person that states the reasons for the denial and informs the person that the denial may be appealed to the department.

5. The bill requires DFI to deny an application for a registration or take certain actions against a person registered by DFI if the person is liable for delinquent state taxes or if the person is delinquent in paying child support or fails to comply with a subpoena or warrant issued by the department of children and families or a county child support agency concerning a child support or paternity proceeding.

6. Under the bill, DFI may investigate an applicant for registration, and subject to rules promulgated by DFI, DFI may investigate whether an applicant for registration or a registered person has a criminal history.

7. The bill authorizes DFI to investigate a complaint of misconduct against a person DFI registers. Any person may file such a complaint with DFI. DFI's burden of proof in a disciplinary proceeding against a registered person is a preponderance of the evidence. The bill also authorizes DFI to issue an administrative warning in lieu of conducting a disciplinary proceeding if certain requirements are met. DFI may charge a registered person the costs DFI incurs for a misconduct investigation and disciplinary proceeding.

8. Under the bill, DFI may conduct investigations, hold hearings, and make findings concerning a person's performance of a practice or use of a title without a required registration issued by DFI. DFI may enjoin such a person from continuing to perform a practice or use a title contrary to the laws DFI administers under the bill, or DFI may petition a circuit court to issue a temporary restraining order or an injunction against that person. If a person violates an order of DFI or a court enjoining the person's unlawful use of a title or performance of a practice regulated by DFI, that person may be subject to criminal penalties.

initial registration or registration

against a registrant

an application for initial registration or registration

also under the bill

applicant

applicant

analysis

9. Under the bill, DFI is required to determine the fee for an initial registration and registration renewal for each type of registration DFI administers under the bill. DFI may accept fee payments by means of a debit or credit card. Current fees remain in effect until adjusted by DFI.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 45.44 (1) (a) 11m. of the statutes is created to read:

2 45.44 (1) (a) 11m. A registration issued under s. 202.13 or 202.14.

3 **SECTION 2.** 46.90 (5m) (br) 5g. of the statutes is created to read:

4 46.90 (5m) (br) 5g. Refer the case to the department of financial institutions
5 if the financial exploitation, neglect, self-neglect, or abuse involves an individual
6 who is required to be registered under s. 202.13 or 202.14.

7 **SECTION 3.** 49.857 (1) (d) 14m. of the statutes is created to read:

8 49.857 (1) (d) 14m. A registration issued under ss. 202.12 to 202.14 or 202.22.

9 **SECTION 4.** 54.15 (8) (a) 3. of the statutes is amended to read:

10 54.15 (8) (a) 3. Any license, certificate, permit, or registration of the proposed
11 guardian that is required under chs. 202 or 440 to 480 or by the laws of another state
12 for the practice of a profession or occupation has been suspended or revoked.

13 **SECTION 5.** 55.043 (4) (b) 5g. of the statutes is created to read:

14 55.043 (4) (b) 5g. Refer the case to the department of financial institutions if
15 the financial exploitation, neglect, self-neglect, or abuse involves an individual who
16 is required to be registered under s. 202.13 or 202.14.

17 **SECTION 6.** 73.0301 (1) (d) 6. of the statutes is amended to read:

18 73.0301 (1) (d) 6. A license or certificate of registration issued by the
19 department of financial institutions, or a division of it, under ss. 138.09, 138.12,

1 138.14, 202.12 to 202.14, 202.22, 217.06, 218.0101 to 218.0163, 218.02, 218.04,
2 218.05, 224.72, 224.725, 224.93 or under subch. IV of ch. 551.

3 **SECTION 7.** 108.02 (21e) (intro.) of the statutes is amended to read:

4 108.02 **(21e)** PROFESSIONAL EMPLOYER ORGANIZATION. (intro.) "Professional
5 employer organization" means any person who is currently registered as a
6 professional employer organization with the department of ~~safety and professional~~
7 ~~services~~ financial institutions in accordance with subch. III of ch. 461 202, who
8 contracts to provide the nontemporary, ongoing employee workforce of more than one
9 client under a written leasing contract, the majority of whose clients are not under
10 the same ownership, management, or control as the person other than through the
11 terms of the contract, and who under contract and in fact:

12 **SECTION 8.** 125.06 (11) of the statutes is amended to read:

13 125.06 **(11)** AUCTION SALES. The sale by an auction house at public auction of
14 a collection of sealed bottles of intoxicating liquor or unopened beer cans for the
15 purpose of settling an estate or disposing of the collection or the auction sale of sealed
16 bottles or containers of wine or of unopened bottles of intoxicating liquor or
17 fermented malt beverages by a charitable organization, as defined in s. ~~440.41~~ 202.11
18 (1), at an auction held to raise money for the charitable organization.

19 **SECTION 9.** 134.73 (1) (a) of the statutes is amended to read:

20 134.73 **(1)** (a) "Contribution" has the meaning given in s. ~~440.41~~ 202.11 (5).

21 **SECTION 10.** 134.73 (1) (c) of the statutes is amended to read:

22 134.73 **(1)** (c) "Solicit" has the meaning given in s. ~~440.41~~ 202.11 (8).

23 **SECTION 11.** 165.825 of the statutes is amended to read:

24 **165.825 Information link; ~~department of health services~~.** The
25 department of justice shall cooperate with the departments of safety and

1 professional services ~~and~~, health services, and financial institutions in developing
2 and maintaining a computer linkup to provide access to the information obtained
3 from a criminal history search.

4 **SECTION 12.** 181.0203 (3) of the statutes is amended to read:

5 181.0203 (3) NOTIFICATION OF REPORTING REQUIREMENTS. Upon filing articles of
6 incorporation of a corporation, the department shall inform the corporation of the
7 reporting requirements under s. ~~440.42~~ 202.12 for charitable organizations that
8 solicit contributions.

9 **SECTION 13.** 196.208 (5p) (a) 1. of the statutes is amended to read:

10 196.208 (5p) (a) 1. "Charitable organization" has the meaning given in s.
11 ~~440.41~~ 202.11 (1).

12 **SECTION 14.** Chapter 202 of the statutes is created to read:

13 **CHAPTER 202**

14 **REGULATION OF PROFESSIONAL**

15 **EMPLOYER ORGANIZATIONS AND**

16 **THE SOLICITATION OF FUNDS FOR**

17 **A CHARITABLE PURPOSE**

18 **SUBCHAPTER I**

19 **GENERAL PROVISIONS**

20 **202.01 Definitions.** In this subchapter:

21 (1) "Applicant" means any of the following:

22 (a) A person applying to the department for an initial registration.

23 (b) A person applying to the department for renewal of a registration.

24 (2) "Controlling person" has the meaning given in 202.21 (3).

25 (3) "Department" means the department of financial institutions.

(4) "Registrant" means a person who is registered under ss. 202.12 to 202.14 or 202.22.

(5) "Registration" means a registration the department issues under ss. 202.12 to 202.14 or 202.22.

202.02 General duties and powers. (1) The department may issue subpoenas for the attendance of witnesses and the production of documents or other materials prior to the commencement of a disciplinary or other proceeding under this chapter.

(2) The department shall establish the content and form of each type of registration. Upon the request of a registrant and payment of a \$10 fee, the department may issue to a registrant a wall certificate signed by the governor.

(3) The department may by rule require a registrant to do any of the following:

(a) Display the registrant's certificate of registration in a conspicuous place in the registrant's office or place of business.

(b) Post a notice in a conspicuous place in the registrant's office or place of business describing the procedures for filing a complaint against the registrant.

(4) (a) The department shall require each applicant to provide his or her social security number with the applicant's application for a registration or registration renewal, or, if the applicant is not an individual, the department shall require the applicant to provide its federal employer identification number.

(b) If an applicant is an individual who does not have a social security number, the applicant shall submit a statement to the department made or subscribed under oath that the applicant does not have a social security number. The department of children and families shall prescribe the form of the statement. A registration issued in reliance upon a false statement submitted under this paragraph is invalid.

(c) The department may not disclose a social security number obtained under par. (a) to any person except the department of children and families to administer s. 49.22 and the department of revenue to request certifications under s. 73.0301 and administer state taxes.

(5) The department shall cooperate with the departments of justice and children and families to develop and maintain a computer linkup to provide access to information regarding the current status of a registration, including whether the registration has been restricted in any way.

(6) (a) The department may conduct an investigation to determine whether an applicant satisfies any of the eligibility requirements specified for the registration, including whether the applicant does not have an arrest or conviction record. In conducting an investigation under this paragraph, the department may require an applicant to provide any information that is necessary for the investigation, except that, for an investigation of an arrest or conviction record, the department shall comply with the requirements under par. (c) and (d).

(b) A registrant who is convicted of a felony or misdemeanor anywhere in the U.S. shall send a notice of the conviction by 1st class mail to the department within 48 hours after the entry of the judgment of conviction. The department shall by rule determine what information and documentation the registrant shall include with that notice.

(c) The department may investigate whether an applicant or registrant has been charged with or convicted of a crime only pursuant to rules promulgated by the department under this paragraph, including rules that establish the criteria the department will use to determine whether an investigation under this paragraph is necessary.

(d) 1. Except as provided in subd. 2., the department may not require that an applicant or registrant be fingerprinted or submit fingerprints in connection with a registration.

2. The department ^{may} ~~shall~~ require a person for whom the department conducts an investigation under par. (c) to be photographed and fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints. The department of justice may submit the fingerprint cards to the federal bureau of investigation to verify the identity of the persons fingerprinted and obtain records of their criminal arrests and convictions.

(e) The department shall charge an applicant the fees, costs, or other expenses the department incurs for conducting an investigation under this subsection.

202.025 Registration renewal (1) NOTICE OF RENEWAL. (a) The department shall give a notice of renewal to each registrant at least 30 days before the renewal date of the registration. The department may give that notice by electronic transmission.

(b) Failure to receive a notice of renewal is not a defense in any disciplinary proceeding against a registrant or in any proceeding against a former registrant for practicing without a registration. Failure to receive a notice of renewal does not relieve a registrant from the obligation to pay a penalty for late renewal under sub.

(2).

(2) LATE RENEWAL. (a) Except as provided in rules promulgated under par. (b), if the department does not receive an application to renew a registration before the applicable renewal date, the registrant may restore the registration by payment of the renewal fee determined by the department under s. 202.08 and a late fee of \$25.

paying, within 60 days after the renewal date,

Denial of registration or registration renewal

(b) The department may promulgate rules requiring a registrant who fails to renew a registration within 5 years after the applicable renewal date to complete requirements to restore the registration, in addition to any applicable requirements for renewal established under this chapter, that the department determines are necessary to protect the public health, safety, or welfare. The rules may not require the registrant to complete educational requirements or pass examinations that are more extensive than the educational or examination requirements that are required for an initial registration.

(3) DENIAL OF RENEWAL. (a) 1. If the department determines that an applicant for registration renewal has failed to comply with any applicable requirement for renewal, or that the denial of an application for renewal is necessary to protect the public health, safety, or welfare, the department may summarily deny the application for renewal.

2. If the department denies an application for renewal under subd. 1., the department shall ^{Provide} mail to the ^{applicant with} registrant a notice of denial that states the facts or conduct giving rise to the denial and states that the ^{applicant} registrant may, within 30 days after the date ^{started} on which the notice of denial is mailed, file a written request with the department for the department to review the denial at a hearing.

(b) This subsection does not apply to a denial of a registration renewal under s. 202.03 or 202.035 (2) (b).

202.03 Registration denial, nonrenewal, or revocation based on tax delinquency. Notwithstanding ss. 202.12 to 202.14 and 202.22, the department shall deny an application for an initial registration or for registration renewal, or revoke a registration, if the department of revenue certifies under s. 73.0301 that the applicant or registrant is liable for delinquent taxes, as defined in s. 73.0301 (1) (c).

****NOTE: I did not include a provision authorizing registration denial, etc., based on incompetency, see s. 440.121, because under current law DSPS only applies that provision if there is evidence that the license holder may physically harm him or herself or another person in connection with the practice for which the license is issued by DSPS. See s. 54.25 (2) (c) 1. d. While the question of physical harm is relevant to the medical practices, etc., that question does not seem to come into play for the only registrations for individuals (as opposed to entities) being transferred to DFI in this draft—for professional fund-raisers and for fund-raising counsel. Nevertheless, please let me know if you want to include a provision for registration denial, etc., based on incompetency.

1 **202.035 Delinquency in support payments; failure to comply with**
2 **subpoena or warrant. (1)** In this section, “support” has the meaning given in s.
3 49.857 (1) (g).

4 **(2)** Notwithstanding ss. 202.12 to 202.14 and 202.22, the department shall do
5 all of the following, subject to the memorandum of understanding between the
6 department and the department of children and families under s. 49.857:

7 (a) Restrict, limit, or suspend a registration, or deny an application for an
8 initial registration, if the registrant, applicant, or a controlling person of the
9 registrant or applicant is delinquent in paying support or fails to comply, after
10 appropriate notice, with a subpoena or warrant related to support or paternity
11 proceedings that is issued by the department of children and families or a county
12 child support agency under s. 59.53 (5).

13 (b) Deny an application for registration renewal if the registrant or a
14 controlling person of the registrant is delinquent in paying support or fails to comply,
15 after appropriate notice, with a subpoena or warrant related to support or paternity
16 proceedings that is issued by the department of children and families or a county
17 child support agency under s. 59.53 (5).

****NOTE: I did not include the authority to revoke a registration for delinquency in child support because that power is not included for DSPS under current law. See s. 440.13. Please let me know if you want to include the power to revoke a registration for delinquency in child support. Note that the power to deny a renewal application is included.

****NOTE: Also, I included "controlling person" language in the above provision regarding delinquency in child support because current law includes a "controlling person" for that purpose. See s. 461.02 (9) (bm) 3. Please let me know if you want to of any of the other general provisions created for DFI in the draft under ss. 202.02 to 202.09 to apply to a controlling person. See the definition of a controlling person under s. 461.01 (3).

1 **202.04 Voluntary surrender of registration.** A registrant may voluntarily
2 surrender his or her registration. The department may refuse to accept that
3 surrender if a complaint has been filed or a disciplinary proceeding has been
4 commenced against the registrant.

5 **202.05 Nondisclosure of certain personal information.** (1) In this
6 section:

7 (a) "List" means information compiled or maintained by the department that
8 contains the personal identifiers of at least 10 individuals.

9 (b) "Personal identifier" means a social security number, telephone number,
10 street name and number, electronic mail address, or post-office box number.

11 (2) If a form that the department requires an individual to complete in
12 connection with a registration or registration renewal under this chapter requires
13 the individual to provide a personal identifier of the individual, the form shall
14 include a place for the individual to declare that the individual's personal identifier
15 may not be disclosed on any list that the department furnishes to another person.

16 (3) If the department requires an individual to provide in person or by
17 telephone or other electronic means a personal identifier of the individual in
18 connection with a registration or registration renewal under this chapter, the
19 department shall provide the individual an opportunity to declare that the
20 individual's personal identifier may not be disclosed on any list that the department
21 furnishes to another person.

(4) Upon request, the department shall provide to a registrant who is an individual a form that includes a place for the individual to declare that the individual's personal identifier may not be disclosed on any list that the department furnishes to another person.

(5) (a) Except as provided in par. (b), the department may not disclose on any list that it furnishes to another person a personal identifier of any individual who has made a declaration under sub. (2), (3), or (4).

(b) Paragraph (a) does not apply to a list that the department furnishes to another state agency, a law enforcement agency, or a federal governmental agency. A state agency that receives a list from the department containing a personal identifier of an individual who has made a declaration under sub. (2), (3), or (4) may not disclose the personal identifier to any person other than a state agency, a law enforcement agency, or a federal governmental agency.

202.055 Change of name or address. (1) An applicant or registrant that undergoes a change of name or address shall notify the department of the applicant's or registrant's new name or address within 30 days after the change in writing or in accordance with other notification procedures approved by the department.

(2) The department may serve any process, notice, or demand on a registrant by mailing it to the last-known address of the registrant as indicated in the department's records ^{or by other means established by the department by rule}

(3) Any person who fails to comply with sub. (1) shall be subject to a forfeiture of \$50.

202.06 Disciplinary proceedings

(1) Any person may file a complaint with the department, requesting the department to commence disciplinary proceedings against a registrant, and the department may investigate that complaint.

enforcement of laws requiring registration

(B)

Insert 12-23 [merge with text]

1 (2) The department's burden of proof in a disciplinary proceeding against a
2 registrant is a preponderance of the evidence.

3 **202.065 Assessment of costs.** (1) In this section, "costs of the proceeding"
4 means the compensation and reasonable expenses of hearing examiners and of
5 prosecuting attorneys for the department, a reasonable disbursement for the service
6 of process or other papers, and amounts actually paid for photocopies, certified copies
7 of records in a public office, postage, telephoning, adverse examinations and
8 depositions, stenographic fees and expenses, witness fees and expenses, expert
9 witness fees and expenses, and investigator fees and expenses.

10 (2) In any disciplinary proceeding against a registrant in which the
11 department orders suspension, limitation, or revocation of the registration or
12 reprimands the registrant, the department may, in addition to imposing discipline,
13 assess all or part of the costs of the proceeding against the registrant. Costs assessed
14 under this subsection are payable to the department. Interest shall accrue on costs
15 assessed under this subsection at a rate of 12 percent per year beginning on the date
16 that payment of the costs becomes due as ordered by the department. Upon the
17 request of the department, the department of justice may commence an action to
18 recover costs assessed under this subsection and any accrued interest.

19 (3) If the department assesses costs of the proceeding to a registrant under sub.
20 (2), the department may not restore, renew, reinstate, or otherwise issue any
21 registration to the registrant until the registrant pays those costs in full, together
22 with any accrued interest.

23 **202.07 Administrative warnings.** (1) If the department determines during
24 an investigation of a complaint against a registrant that there is evidence that the
25 registrant committed misconduct, the department may close the investigation by

1 issuing an administrative warning to the registrant if the department determines
2 that no further disciplinary action is warranted, the complaint involves a first
3 occurrence of a minor violation, and the issuance of an administrative warning
4 adequately protects the public.

5 (2) A registrant may obtain review of an administrative warning through a
6 personal appearance before the department.

7 (3) (a) An administrative warning does not constitute an adjudication of guilt
8 or the imposition of discipline and, except as provided in par. (b), may not be used as
9 evidence that the registrant is guilty of the alleged misconduct.

10 (b) If the department receives a subsequent complaint of misconduct by a
11 registrant against whom the department issued an administrative warning, the
12 department may reopen the matter that gave rise to the administrative warning and
13 commence disciplinary proceedings against the registrant, and the administrative
14 warning may be used as evidence that the registrant had actual notice that the
15 misconduct that was the basis for the administrative warning was contrary to law.

16 (4) The fact that the department issued an administrative warning is a public
17 record. ~~The contents of an administrative warning shall remain private and~~
18 ~~confidential and are not~~ subject to inspection or copying under s. 19.35.

19 (5) ~~The department shall promulgate rules establishing uniform procedures~~
20 ~~for the department's issuance and use of administrative warnings.~~

21 **202.075/ Enforcement of laws requiring registration.** (1) The department
22 may conduct investigations, hold hearings, and make findings as to whether a person
23 has engaged in a practice or used a title without a registration required under ss.
24 202.12 to 202.14 or 202.22.

(2) If, after holding a public hearing, the department determines that a person has engaged in a practice or used a title without a registration required under ss. 202.12 to 202.14 or 202.22, the department may issue a special order enjoining the person from continuing the practice or use of the title.

(3) In lieu of holding a public hearing, if the department has reason to believe that a person has engaged in a practice or used a title without a registration required under ss. 202.12 to 202.14 or 202.22, the department may petition the circuit court for a temporary restraining order or an injunction as provided in ch. 813.

(4) (a) Any person who violates a special order issued under sub. (2) may be required to forfeit not more than \$10,000 for each offense. Each day of continued violation constitutes a separate offense. The attorney general or any district attorney may commence an action in the name of the state to recover a forfeiture under this paragraph.

(b) Any person who violates a temporary restraining order or an injunction issued by a court upon a petition under sub. (3) may be fined not less than \$25 nor more than \$5,000 or imprisoned for not more than one year in the county jail or both.

202.08 Fees. Biennially, the department shall determine the fee for an initial registration and for a registration renewal for each type of registration under ss. 202.12 to 202.14 and 202.22 based on the department's administrative and

enforcement costs, attributable to the department's regulation of charitable organizations, fund-raising counsel, professional fund-raisers, professional employer organizations, and professional employer groups.

202.09 Debit or credit card payments; collection of registration for nonpayment by financial institution. (1) If the department permits the payment of a fee by use of a debit or credit card, the department shall charge a service

under this chapter

may

1 charge for each transaction in addition to the fee being paid. The service charge shall
2 be sufficient to cover the cost to the department of permitting the payment of a fee
3 by debit or credit card.

4 (2) If a registrant pays a fee required under this chapter by check or by debit
5 or credit card and the check is not paid by the financial institution upon which the
6 check is drawn or if the demand for payment under the debit or credit card
7 transaction is not paid by the financial institution upon which demand is made, the
8 department may cancel the registration after 60 days after the department receives
9 a notice of nonpayment from the financial institution, subject to sub. (3).

10 (3) At least 20 days before canceling a registration under sub. (2), the
11 department shall ^{provide} mail a notice to the registrant that informs the registrant that the
12 check or demand for payment under the debit or credit card transaction was not paid
13 by the financial institution and that the registrant's registration may be cancelled,
14 unless the registrant does all of the following before that date:

15 (a) Pays the fee for which the unpaid check or demand for payment under the
16 debit or credit card transaction was issued.

17 (b) Pays any applicable late fee.

18 (c) Pays the charge for an unpaid draft established by the depository selection
19 board under s. 20.905 (2). ✓

20 (4) The department may extend the date for cancellation to allow the registrant
21 additional time to comply with sub. (3) (a) to (c).

22 (5) The department may reinstate a registration that it cancelled under this
23 section only if the former registrant complies with sub. (3) (a) to (c) and pays a \$30
24 reinstatement fee.

25 2011 (5m) "Department" means the department of financial institutions. ✓

2

INSE 16-25

1 200.21 (3m) "Department" means the department of financial institutions.✓

2 SECTION 15. 321.60 (1) (a) 12. of the statutes is amended to read:

3 321.60 (1) (a) 12. A license or certificate of registration issued by the
4 department of financial institutions, or a division of it, under ss. 138.09, 138.12,
5 138.14, 202.13, 202.14, 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72,
6 224.725, or 224.93 or subch. IV of ch. 551.

7 SECTION 16. 440.03 (7m) of the statutes is amended to read:

8 440.03 (7m) The department may promulgate rules that establish procedures
9 for submitting an application for a credential or credential renewal by electronic
10 transmission. Any rules promulgated under this subsection shall specify procedures
11 for complying with any requirement that a fee be submitted with the application.
12 The rules may also waive any requirement in chs. 440 to 480 that an application
13 submitted to the department, an examining board or an affiliated credentialing
14 board be executed, verified, signed, sworn or made under oath, notwithstanding ss.
15 440.26 (2) (b), ~~440.42 (2) (intro.)~~, 440.91 (2) (intro.), 443.06 (1) (a), 443.10 (2) (a),
16 445.04 (2), 445.08 (4), 445.095 (1) (a), 448.05 (7), 450.09 (1) (a), 452.10 (1) and 480.08
17 (2m).

18 SECTION 17. 440.03 (13) (b) 29. of the statutes is repealed.

19 SECTION 18. 440.03 (13) (b) 57m. of the statutes is repealed.

20 SECTION 19. 440.03 (13) (b) 58. of the statutes is repealed.

21 SECTION 20. 440.05 (intro.) of the statutes is amended to read:

22 440.05 Standard fees. (intro.) The following standard fees apply to all initial
23 credentials, except as provided in ss. ~~440.42, 440.43, 440.44~~, 440.51, 444.03, 444.11,
24 446.02 (2) (c), 447.04 (2) (c) 2., 449.17 (1m) (d), and 449.18 (2) (d):

25 SECTION 21. 440.08 (2) (a) 23m. of the statutes is repealed.

SECTION 22. 440.08 (2) (a) 35m. of the statutes is repealed.

SECTION 23. 440.08 (2) (a) 63p. of the statutes is repealed.

SECTION 24. 440.08 (2) (a) 63t. of the statutes is repealed.

SECTION 25. Subchapter IV (title) of chapter 440 [precedes 440.41] of the statutes is renumbered subchapter II (title) of chapter 202 [precedes 202.11].

SECTION 26. 440.41 (intro.) of the statutes is renumbered 202.11 (intro.).

SECTION 27. 440.41 (1) of the statutes is renumbered 202.11 (1).

SECTION 28. 440.41 (2) (intro.) of the statutes is renumbered 202.11 (2) (intro.).

SECTION 29. 440.41 (2) (a) of the statutes is renumbered 202.11 (2) (a).

SECTION 30. 440.41 (2) (b) of the statutes is renumbered 202.11 (2) (b) and amended to read:

202.11 (2) (b) A benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary objective.

SECTION 31. 440.41 (3) of the statutes is renumbered 202.11 (3) and amended to read:

202.11 (3) “Charitable sales promotion” means an advertising or sales campaign, that is conducted by a person who is regularly and primarily engaged in trade or commerce for profit other than in connection with soliciting, ~~which~~ and that represents that the purchase or use of goods or services offered will benefit, in whole or in part, a charitable organization or charitable purpose.

SECTION 32. 440.41 (4) of the statutes is renumbered 202.11 (4).

SECTION 33. 440.41 (5) of the statutes is renumbered 202.11 (5) (intro.) and amended to read:

1 202.11 (5) (intro.) "Contribution" means a grant or pledge of money, credit,
2 property, or other thing of any kind or value, except used clothing or household goods,
3 to a charitable organization or for a charitable purpose. "Contribution" does not
4 include income from ~~bingo~~ any of the following:

5 (a) Bingo or raffles conducted under ch. 563, ~~a.~~

6 (b) A government grant, ~~or a.~~

7 (c) A bona fide fee, due, or assessment paid by a member of a charitable
8 organization, except that, if initial membership in a charitable organization is
9 conferred solely as consideration for making a grant or pledge of money to the
10 charitable organization in response to a solicitation, ~~the~~ that grant or pledge of
11 money is a contribution.

12 **SECTION 34.** 440.41 (6) of the statutes is renumbered 202.11 (6) (intro.) and
13 amended to read:

14 202.11 (6) (intro.) "Fund-raising counsel" means a person who, for
15 compensation, plans, manages, advises, consults, or prepares material for, or with
16 respect to, solicitation in this state for a charitable organization, but who does not
17 solicit ~~and who does not~~ in this state or employ, engage, or provide any person who
18 is paid to solicit ~~contributions in this state~~. "Fund-raising counsel" does not include
19 ~~an~~ any of the following:

20 (a) An attorney, investment counselor, or employee of a financial institution
21 who, in the normal course of his or her work as an attorney, investment counselor,
22 or employee of a financial institution, advises a person to make a contribution ~~or a.~~

23 (b) A bona fide employee, volunteer, or salaried officer of a charitable
24 organization.

1 **SECTION 35.** 440.41 (7) of the statutes is renumbered 202.11 (7) (intro.) and
2 amended to read:

3 202.11 (7) (intro.) "Professional fund-raiser" means a person who, for
4 compensation, solicits in this state or employs, engages, or provides, directly or
5 indirectly, another person who is paid to solicit in this state. "Professional
6 fund-raiser" does not include ~~an~~ any of the following:

7 (a) An attorney, investment counselor, or employee of a financial institution
8 who, in the normal course of his or her work as an attorney, investment counselor,
9 or employee of a financial institution, advises a person to make a charitable
10 contribution, ~~and~~.

11 (b) A bona fide employee, volunteer, wholly owned subsidiary, or salaried officer
12 of a charitable organization, ~~and~~.

13 (c) An employee of a temporary help agency who is placed with a charitable
14 organization ~~or a~~.

15 (d) A bona fide employee of a person who employs another person to solicit in
16 this state.

17 **SECTION 36.** 440.41 (8) of the statutes is renumbered 202.11 (8).

18 **SECTION 37.** 440.41 (9) (intro.) of the statutes is renumbered 202.11 (9) (intro.).

19 **SECTION 38.** 440.41 (9) (a) of the statutes is renumbered 202.11 (9) (a).

20 **SECTION 39.** 440.41 (9) (b) of the statutes is renumbered 202.11 (9) (b) and
21 amended to read:

22 202.11 (9) (b) An announcement to the news media or by radio, television,
23 telephone, telegraph, or other transmission of images or information concerning the
24 ~~a request for contributions~~ a contribution by or for a charitable organization or for
25 a charitable purpose.

1 **SECTION 40.** 440.41 (9) (c) of the statutes is renumbered 202.11 (9) (c) and
2 amended to read:

3 202.11 (9) (c) The distribution or posting of a handbill, written advertisement,
4 or other publication ~~which~~ that directly or by implication seeks ~~contributions~~ a
5 contribution.

6 **SECTION 41.** 440.41 (9) (d) (intro.) of the statutes is renumbered 202.11 (9) (d)
7 (intro.) and amended to read:

8 202.11 (9) (d) (intro.) The sale of, or offer or attempt to sell, a membership or
9 an advertisement, advertising space, book, card, tag, coupon, device, magazine,
10 merchandise, subscription, flower, ticket, candy, cookie, or other tangible item in
11 connection with any of the following:

12 **SECTION 42.** 440.41 (9) (d) 1. of the statutes is renumbered 202.11 (9) (d) 1.

13 **SECTION 43.** 440.41 (9) (d) 2. of the statutes is renumbered 202.11 (9) (d) 2.

14 **SECTION 44.** 440.41 (9) (d) 3. of the statutes is renumbered 202.11 (9) (d) 3.

15 **SECTION 45.** 440.41 (10) of the statutes is renumbered 202.11 (10).

16 **SECTION 46.** 440.42 of the statutes is renumbered 202.12, and 202.12 (1) (b) 3.,
17 (c) and (d), (2) (b), (c), (g) and (L) 1. and 2., (3) (a) 2., (5) (a) 1., 2., 3., 3m. and 5. and
18 (7) (a), (b) and (c), as renumbered, are amended to read:

19 202.12 (1) (b) 3. Pays to the department a \$15 the registration fee determined
20 by the department under s. 202.08.

21 (c) The department shall issue a certificate of registration to each charitable
22 organization that is registered under this subsection. Renewal applications shall be
(23) submitted to the department, ~~on a form provided by the department, on or before the~~ in and manner prescribed
24 ~~expiration date specified in s. 440.08 (2) (a)~~ by August 1 of each year and shall include

1 a registration statement that complies with sub. (2) and the renewal fee determined
2 by the department under s. ^{440.03 (9) (a)} 202.08. Upon the department's
review of

3 (d) ~~Within 20 days after receiving~~ an application for registration or for renewal
4 of a registration under this subsection, the department shall notify the charitable
5 organization of any deficiencies in the application, registration statement, or fee
6 payment.

7 (2) (b) The address and telephone number ^{and electronic mail address, if available} of the charitable organization and
8 the address and telephone number of any offices in this state or, if the charitable
9 organization does not have an address, the name, address, and telephone number of
10 the person having custody of its financial records.

11 (c) The names and the addresses of the officers, directors and, trustees, and the
12 principal salaried employees of the charitable organization.

13 (g) A statement of whether the charitable organization has ever had its
14 authority to solicit denied, suspended, revoked, or enjoined by a court or other
15 governmental authority.

16 (L) 1. A copy of the charitable organization's charter, articles of organization,
17 agreement of association, instrument of trust, constitution, or other organizational
18 instrument and bylaws.

19 2. A statement of the place where and the date when the charitable
20 organization was legally established, the form of its organization, and whether it has
21 tax-exempt status.

22 (3) (a) 2. A statement of support, revenue, expenses, and changes in fund
23 balance.

(5) (a) 1. A person that is exempt from filing a federal annual information return under section 6033 (a) (2) (3) (A) (i) and (iii) and (C) (i) of the ~~internal revenue~~

~~code~~ Internal Revenue Code

2. A candidate for national, state, or local office or a political party or other committee or group required to file financial information with the federal elections commission or a filing officer under s. 11.02.

3. Except as provided in par. (b) and in rules promulgated under sub. (8), a charitable organization ~~which~~ that does not intend to raise or receive contributions in excess of \$5,000 during a fiscal year, if all of its functions, including solicitation, are performed by persons who are unpaid for their services and if no part of its assets or income inures to the benefit of, or is paid to, any officer or member of the charitable organization.

3m. A fraternal, civic, benevolent, patriotic, or social organization that solicits contributions solely from its membership.

5. A nonprofit, postsecondary educational institution accredited by a regional accrediting agency or association approved under 20 USC 1099b, or an educational institution and its authorized charitable foundations ~~which~~ that solicit contributions only from its students and their families, alumni, faculty, trustees, corporations, foundations, and patients.

(7) (a) Before a fund-raising counsel performs any material services for a charitable organization that is required to be registered under sub. (1), the charitable organization shall contract in writing with the fund-raising counsel, except as provided in par. (c). Requirements for the contract are specified in s. ~~440.43~~ ^A 202.13

(3).

(b) Before a professional fund-raiser performs any material services for a charitable organization that is required to be registered under sub. (1), the charitable organization shall contract in writing with the professional fund-raiser.

Requirements for the contract are specified in s. ~~440.44~~ ^{202.14} (4).

(c) Paragraph (a) does not apply if the fund-raising counsel is exempt under s. ~~440.43~~ ^{202.13} (6) from contracting in writing with the charitable organization.

SECTION 47. 440.43 of the statutes is renumbered 202.13, and 202.13 (1) (a), (b) 3. and (c), (3), (5) and (6), as renumbered, are amended to read:

202.13 (1) (a) Except as provided in sub. (6), no fund-raising counsel may at any time have custody of contributions from a solicitation for a charitable organization that is required to be registered under s. ~~440.42~~ ^{202.12} (1) unless the fund-raising counsel is registered with the department under this subsection.

(b) 3. Pays to the department a \$50 the registration fee determined by the department under s. 202.08, except that no registration fee is required under this subdivision for an individual who is eligible for the veterans fee waiver program under s. 45.44.

(c) The department shall issue a certificate of registration to each fund-raising counsel that is registered under this subsection. Renewal applications shall be submitted to the department, ~~on~~ ⁱⁿ a form ~~provided~~ ^{and manner prescribed} by the department, ~~on or before the date specified in s. 440.08 (2) (a) by September 1 of each even-numbered year and~~ shall include the renewal fee determined by the department under s. ~~440.03 (9) (a)~~ ^{202.08} and evidence satisfactory to the department that the fund-raising counsel maintains a bond that is approved under sub. (2).

(3) CONTRACT. Except as provided in sub. (6), before a fund-raising counsel performs any material services for a charitable organization that is required to be

1 registered under s. ^Δ~~440.42~~ 202.12 (1), the charitable organization and the
2 fund-raising counsel shall contract in writing, and the fund-raising counsel shall
3 file the contract with the department. The contract shall contain information that
4 will enable the department to identify the services that the fund-raising counsel is
5 to provide, including whether the fund-raising counsel will at any time have custody
6 of contributions.

7 (5) DEPARTMENT DISCLOSURE. The department shall not disclose information
8 under sub. (4) (c) 1. except to the extent necessary for investigative or law
9 enforcement purposes and except that the department may, if requested under s.
10 49.22 (2m), disclose information regarding the name, address, or employer of or
11 financial information related to an individual to the department of children and
12 families or a county child support agency under s. 59.53 (5).

13 (6) EXCEPTIONS. This section does not apply to a fund-raising counsel who does
14 not intend to earn more than \$1,000 per year as a fund-raising counsel, except that
15 a fund-raising counsel who does not intend to earn more than \$1,000 but does earn
16 more than \$1,000 in a year shall, beginning 30 days after actually earning more than
17 \$1,000 in a year, comply with sub. (3) and, if the fund-raising counsel at any time has
18 custody of contributions for a charitable organization that is required to be registered
19 under s. ^Δ~~440.42~~ 202.12 (1), register under sub. (1).

20 SECTION 48. 440.44 of the statutes is renumbered 202.14, and 202.14 (1) (a),
21 (b) 3., (c) and (d), (3) (intro.), (4) (a), (7), (8), (9) (a) 2. and (10), as renumbered, are
22 amended to read:

23 202.14 (1) (a) No professional fund-raiser may solicit in this state for a
24 charitable organization that is required to be registered under s. ^Δ~~440.42~~ 202.12 (1)
25 unless the professional fund-raiser is registered under this subsection.

(b) 3. Pays ~~to the department a \$50~~ the registration fee determined by the department under s. 202.08, except that no registration fee is required under this subdivision for an individual who is eligible for the veterans fee waiver program under s. 45.44.

(c) The department shall issue a certificate of registration to each professional fund-raiser that is registered under this subsection. Renewal applications shall be submitted to the department, ~~on a form provided by the department, on or before the~~ ⁱⁿ ~~date specified in s. 440.08 (2) (a) by September 1 of each even-numbered year and~~ ^{and manner prescribed} shall include the renewal fee determined by the department under s. ~~440.03 (9) (a)~~ ^{202.08} and evidence satisfactory to the department that the professional fund-raiser maintains a bond that is approved under sub. (2). ^{upon the department's review of}

(d) ~~Within 20 days after receiving~~ an application for registration or for renewal of a registration under this subsection, the department shall notify the professional fund-raiser of any deficiencies in the application, bond, or fee payment.

(3) (intro.) Before performing services under a contract with a charitable organization that is required to be registered under s. ~~440.42~~ ^{202.12} (1), a professional fund-raiser shall file with the department a completed solicitation notice in the form ^{and manner} prescribed by the department. The charitable organization on whose behalf the professional fund-raiser is acting shall file with the department a written confirmation that the solicitation notice and any accompanying material are true and complete to the best of its knowledge. The solicitation notice shall include all of the following:

(4) (a) A professional fund-raiser and a charitable organization that is required to be registered under s. ~~440.42~~ ^{202.12} (1) shall enter into a written contract that clearly states the respective obligations of the professional fund-raiser and the

1 charitable organization and states the amount of gross revenue, raised under the
2 contract, that the charitable organization will receive. The amount of the gross
3 revenue that the charitable organization will receive shall be expressed as a fixed
4 percentage of the gross revenue or as an estimated percentage of the gross revenue,
5 as provided in pars. (b) to (d).

6 (7) FINANCIAL REPORT. Within 90 days after completing services under a
7 contract described in sub. (4), and on the anniversary of the signing of a contract
8 described under sub. (4) lasting more than one year, the professional fund-raiser
9 shall, if the charitable organization is required to be registered under s. ^Δ440.42
10 202.12 (1), account in writing to the charitable organization for all contributions
11 received and all expenses incurred under the contract. The charitable organization
12 shall retain the accounting for at least 3 years and make it available to the
13 department upon request.

14 (8) DEPOSITING CONTRIBUTIONS. A professional fund-raiser shall deposit, in its
15 entirety, a contribution of money received by the professional fund-raiser, on behalf
16 of a charitable organization required to be registered under s. ^Δ440.42 202.12 (1), in
17 an account at a financial institution within 5 days after its receipt. The account shall
18 be in the name of the charitable organization. The charitable organization shall have
19 sole control of all withdrawals from the account.

20 (9) (a) 2. The name and residence address of each employee, agent, or other
21 person involved in the solicitation.

22 (10) NONDISCLOSURE. The department may not disclose information under sub.
23 (9) (a) 1. to any person except to the extent necessary for investigative or law
24 enforcement purposes and except that the department may, if requested under s.
25 49.22 (2m), disclose information regarding the name, address, or employer of or

1 financial information related to an individual to the department of children and
2 families or a county child support agency under s. 59.53 (5).

3 **SECTION 49.** 440.45 of the statutes is renumbered 202.15 and amended to read:

4 **202.15 Charitable sales promotions.** If a commercial coventurer conducts
5 a charitable sales promotion on behalf of a charitable organization that is required
6 to be registered under s. ~~440.42~~ ²⁵ 202.12 (1), the commercial coventurer shall disclose
7 in each advertisement for the charitable sales promotion the dollar amount, or
8 percentage of price, per unit of goods or services purchased or used that will benefit
9 the charitable organization or charitable purpose. If the actual dollar amount or
10 percentage cannot reasonably be determined on the date of the advertisement, the
11 commercial coventurer shall disclose an estimated dollar amount or percentage. The
12 estimate shall be based upon all of the relevant facts known to the commercial
13 coventurer and to the charitable organization regarding the charitable sales
14 promotion.

15 **SECTION 50.** 440.455 of the statutes is renumbered 202.155, and 202.155 (1)
16 (intro.) and (b), (2) and (3) (intro.), as renumbered, are amended to read:

17 **202.155 (1) (intro.)** Except as provided in sub. (4), if a professional fund-raiser
18 or unpaid solicitor solicits a contribution for a charitable organization that is
19 required to be registered under s. ~~440.42~~ ²⁵ 202.12 (1), the professional fund-raiser or
20 unpaid solicitor shall, at the time of the solicitation or with a written confirmation
21 of a solicitation, prior to accepting a contribution, make the following disclosures to
22 the person from whom the contribution is solicited:

23 (b) That a financial statement of the charitable organization disclosing assets,
24 liabilities, fund balances, revenue, and expenses for the preceding fiscal year will be
25 provided to the person upon request.

1 (2) The financial statement under sub. (1) (b) shall, at a minimum, divide
2 expenses into categories of management and general, program services and
3 fund-raising. If the charitable organization is required to file an annual financial
4 report under s. ~~440.42~~ ^h 202.12 (3) (a), the financial statement under sub. (1) (b) shall
5 be consistent with that annual financial report.

6 (3) (intro.) In addition to the requirements under subs. (1) and (2), except as
7 provided in sub. (4), if a professional fund-raiser solicits on behalf of a charitable
8 organization that is required to be registered under s. ~~440.42~~ ^A 202.12 (1), all of the
9 following apply:

10 **SECTION 51.** 440.46 of the statutes is renumbered 202.16, and 202.16 (1)
11 (intro.), (b), (c), (e) and (g), as renumbered, are amended to read:

12 202.16 (1) (intro.) No person may, in the planning, management, or execution
13 of a solicitation or charitable sales promotion, do any of the following:

14 (b) Imply that a contribution is for or on behalf of a charitable organization or
15 use any emblem, device, or printed matter belonging to or associated with a
16 charitable organization without first being authorized in writing to do so by the
17 charitable organization.

18 (c) Use a name, symbol, or statement so closely related or similar to that used
19 by another charitable organization that the use of the name, symbol, or statement
20 would tend to confuse or mislead a person being solicited.

21 (e) Lead anyone in any manner to believe that another person sponsors,
22 endorses, or approves a solicitation or charitable sales promotion if the other person
23 has not sponsored, endorsed, or approved the solicitation or charitable sales
24 promotion in writing.

(g) Represent directly or by implication that a charitable organization will receive a fixed or estimated percentage of the gross revenue raised greater than that established under s. ~~440.44~~ ^{202.14} (4).

SECTION 52. 440.47 of the statutes is renumbered 202.17, and 202.17 (1), (2), (3) and (5), as renumbered, are amended to read:

202.17 (1) PUBLIC RECORDS. Except as provided in ss. ~~440.43~~ ^{202.13} (5) and ~~440.44~~ ^{202.14} (10), registration statements, applications, reports, contracts, and agreements of charitable organizations, fund-raising counsel, professional fund-raisers, and unpaid solicitors and all other documents and information retained by or filed with the department under this subchapter are available for inspection or copying under s. 19.35 (1).

(2) FISCAL RECORDS; INSPECTION; RETENTION. All charitable organizations, fund-raising counsels, professional fund-raisers, and unpaid solicitors shall keep true records concerning activities regulated by this subchapter in a form that will enable them accurately to provide the information required by this subchapter. Upon demand, those records shall be made available to the department for inspection and copying. The records shall be retained by the charitable organization, fund-raising counsel, professional fund-raiser, or unpaid solicitor for at least 3 years after the end of the fiscal year to which they relate.

(3) EXCHANGE OF INFORMATION. The department may exchange with the appropriate authority of any other state or of the United States information with respect to charitable organizations, fund-raising counsel, professional fund-raisers, unpaid solicitors, and commercial coventurers.

(5) SUBSTITUTE SERVICE UPON DEPARTMENT OF FINANCIAL INSTITUTIONS. A charitable organization, fund-raising counsel, professional fund-raiser, or

commercial coventurer that has its principal place of business outside of this state or is organized under laws other than the laws of this state and that is subject to this subchapter shall be considered to have irrevocably appointed the department of ~~financial institutions~~ as its agent for the service of process or notice directed to the charitable organization, fund-raising counsel, professional fund-raiser, or commercial coventurer or to any of its partners, principal officers, or directors in an action or proceeding brought under this subchapter. Service of process or notice upon the department of ~~financial institutions~~ shall be made by personally delivering to and leaving with the department of ~~financial institutions~~ a copy of the process or notice. That service shall be sufficient service if the department of ~~financial institutions~~ immediately sends notice of the service and a copy of the process or notice to the charitable organization, fund-raising counsel, professional fund-raiser, commercial coventurer, or other person to whom it is directed by registered mail, with return receipt requested, at the last address known to the department of ~~financial institutions~~.

SECTION 53. 440.475 of the statutes is ~~renumbered 202.175 and amended to~~

read:

202.175 Disciplinary actions. (1) The department may deny, limit, suspend, or revoke the registration of a charitable organization, fund-raising counsel, or professional fund-raiser, or may reprimand a charitable organization, fund-raising counsel, or professional fund-raiser that is registered under this subchapter, if the department finds that the charitable organization, fund-raising counsel, or professional fund-raiser has made a false statement in any registration statement, annual report, or other information required to be filed under, or has otherwise violated, this subchapter or the rules promulgated under this subchapter.

~~(2) In addition to or in lieu of a reprimand or a denial, limitation, suspension, or revocation of a certificate registration under sub. (1), the department may assess against any person who violates this subchapter or the rules promulgated under this subchapter a forfeiture of not less than \$100 nor more than \$1,000 for each violation.~~

SECTION 54. 440.48 of the statutes is renumbered 202.18, and 202.18 (1) (b), (c) 1. and 2. (intro.) and a., (d) and (e), as renumbered, are amended to read:

202.18 (1) (b) Upon finding that a person has violated this subchapter or the rules promulgated under ^{S. 702.095 or} this subchapter, the court may make any necessary order or judgment, including but not limited to injunctions, restitution, and, notwithstanding s. 814.04, award of reasonable attorney fees and costs of investigation and litigation, and, except as provided in par. (c), may impose a forfeiture of not less than \$100 nor more than \$10,000 for each violation.

(13) (c) 1. A person who violates s. ^{440.47} ~~440.47~~ 202.17 (4) (b) may be required to forfeit not more than \$5,000, unless the person establishes reasonable cause for the violation.

2. (intro.) A person who, with intent to avoid, prevent, or interfere with a civil investigation under this subsection, does any of the following may be required to forfeit not more than \$5,000:

a. Alters or by any other means falsifies, removes from any place, conceals, withholds, destroys, or mutilates any documentary material in the possession, custody, or control of a person subject to notice of the taking of testimony or examination of documents under s. ^{440.47} ~~440.47~~ 202.17 (4).

(d) A charitable organization, fund-raising counsel, professional fund-raiser, commercial coventurer, or any other person who violates the terms of an injunction or other order entered under this subsection may be required to forfeit, in addition

1 to all other remedies, not less than \$1,000 nor more than \$10,000 for each violation.
2 The department of justice may recover the forfeiture in a civil action. Each separate
3 violation of an order entered under this subsection is a separate offense, except that
4 each day of a violation through continuing failure to obey an order is a separate
5 offense.

6 (e) No charitable organization may indemnify an officer, employee, or director
7 for any costs, fees, restitution, or forfeitures assessed against that individual by the
8 court under par. (b), (c), or (d) unless the court determines that the individual acted
9 in good faith and reasonably believed the conduct was in or not opposed to the best
10 interests of the charitable organization.

11 **SECTION 55.** Chapter 461 (title) of the statutes is renumbered subchapter III
12 (title) of chapter 202 [precedes 202.21].

13 **SECTION 56.** 461.01 of the statutes is renumbered 202.21, and 202.21 (intro.),
14 (1) and (6) of the statutes, as renumbered, are amended to read:

15 **202.21 Definitions.** (intro.) In this chapter ~~chapter~~ subchapter:

16 (1) "Applicant" means a professional employer organization or a professional
17 employer group that applies for registration under s. ~~461.02~~ 202.22.

18 (6) "Registrant" means a professional employer organization or a professional
19 employer group that is registered under s. ~~461.02~~ 202.22.

20 **SECTION 57.** 461.02 (title) of the statutes is renumbered 202.22 (title).

21 **SECTION 58.** 461.02 (1) of the statutes is renumbered 202.22 (1), and 202.22 (1)
22 (b), as renumbered, is amended to read:

23 202.22 (1) (b) No person may designate as the person's title, or append to the
24 person's name the words or letters, "professional employer organization," "P.E.O.,"
25 "professional employer group," "P.E.G.," "staff leasing company," "registered staff

1 leasing company," "employee leasing company," or "administrative employer," or
2 other similar titles or letters, or use ~~these~~ those titles, words, or letters to describe
3 the person's business or represent that the person or the person's business is
4 registered or licensed as a "professional employer organization," "P.E.O.,"
5 "professional employer group," "P.E.G.," "staff leasing company," "registered staff
6 leasing company," "employee leasing company," or "administrative employer," unless
7 the person is registered ~~by the department~~ under this ~~chapter~~ section.

8 **SECTION 59.** 461.02 (2) of the statutes is renumbered 202.22 (2), and 202.22 (2)
9 (intro.), (d) and (e), as renumbered, are amended to read:

10 202.22 (2) APPLICATION FOR REGISTRATION. (intro.) Except as provided in sub.
11 (7) (b), an applicant for registration under this section shall submit to the
12 department an application for registration ~~on~~ ^{↓ in and manner} a form prescribed by the department,
13 together with the registration fee determined by the department under s. ~~440.03~~ ^{440.03} (9)
14 (a) 202.08 and all of the following:

15 (d) A statement of ownership, which shall include the name and business
16 experience of every controlling person, as defined in s. ~~461.01~~ ^{461.01} 202.21 (3) (a), of the
17 applicant.

18 (e) A statement of management, which shall include the name and business
19 experience of every controlling person, as defined in s. ~~461.01~~ ^{461.01} 202.21 (3) (b), of the
20 applicant.

21 **SECTION 60.** 461.02 (3) of the statutes is repealed.

22 **SECTION 61.** 461.02 (4) of the statutes is renumbered 202.22 (4), and 202.22 (4)
23 (a), as renumbered, is amended to read:

24 202.22 (4) (a) ~~Renewal applications~~ A registrant shall be submitted submit a
25 renewal application, together with the ~~applicable~~ renewal fee determined by the

and manner prescribed

submitting to

department under s. ~~440.03 (9) (a)~~ ^{202.08}, to the department ~~on a form provided by~~ the department ~~on or before the applicable renewal date specified under s. 440.08 (2) (a) by July 1 of each year.~~ Except as provided in pars. (b) and (c) and sub. (7) (b), the a registrant shall submit with each renewal application shall be accompanied by a financial statement, as that term is used specified in sub. (2) (f) 1., updated to reflect the current financial condition of the registrant.

SECTION 62. 461.02 (5) (title) of the statutes is renumbered 202.22 (5) (title).

SECTION 63. 461.02 (5) (a) of the statutes is renumbered 202.22 (5) (a) and amended to read:

202.22 (5) (a) Except as provided in sub. (7) (b), a professional employer organization or professional employer group that is domiciled outside this state, that is registered or licensed as a professional employer organization or professional employer group in another state, that does not maintain an office in this state or directly solicit clients that are located or domiciled in this state, and that has no more than 50 employees performing services for clients in this state on any given day may apply for small operations registration under this section by ~~filing with~~ the department ^{an application for} ~~small operations registration~~ ^{in a} ~~form~~ ^{and manner} prescribed by the department and paying the initial ~~credential~~ registration fee determined by the department under s.

~~440.03 (9) (a)~~ ^{202.08}. An applicant that is seeking small operations registration shall, in addition to the information required under sub. (2) (a) to (e), provide the department with information and documentation showing that the applicant meets the qualifications specified in this paragraph for small operations registration.

SECTION 64. 461.02 (5) (b) of the statutes is repealed.

SECTION 65. 461.02 (5) (c) of the statutes is repealed.

SECTION 66. 461.02 (5) (d) of the statutes is renumbered 202.22 (5) (d).

1 **SECTION 67.** 461.02 (5) (e) of the statutes is renumbered 202.22 (5) (e) and
2 amended to read:

3 202.22 (5) (e) A professional employer organization or professional employer
4 group registered under this subsection is not required to comply with the financial
5 capability requirement under s. ~~461.03~~ [☆] 202.23.

6 **SECTION 68.** 461.02 (6) of the statutes is renumbered 202.22 (6) and amended
7 to read:

8 202.22 (6) PROFESSIONAL EMPLOYER GROUP REGISTRATION. Except as provided in
9 sub. (7) (b), 2 or more professional employer organizations that are part of a
10 professional employer group may register under this section or renew a registration
11 by providing the information required under sub. (2), (4), or (5) on a combined or
12 consolidated basis, paying the initial ~~credential~~ registration or renewal fee
13 determined by the department under s. ~~440.03 (9) (a)~~ [☆] 202.08, and guaranteeing each
14 other's obligations. If a professional employer group provides a combined or
15 consolidated financial statement under sub. (2) (f) 1. that includes the financial
16 condition of entities that are not part of the professional employer group, the
17 controlling person ~~controlling the professional employer group~~ shall guarantee the
18 obligations of the professional employer organizations in the professional employer
19 group.

20 **SECTION 69.** 461.02 (7) of the statutes is renumbered 202.22 (7), and 202.22 (7)
21 (a), (b) and (c), as renumbered, are amended to read:

22 202.22 (7) (a) The department shall by rule provide for registration of a
23 professional employer organization or professional employer group on acceptance by
24 the department of a registration form, financial statement, or any other information
25 or documentation required under sub. (2), (4), (5), or (6), s. ~~461.03~~ [☆] 202.23, or rules

promulgated under s. ~~461.06~~ ^{202.095 or} 202.26 in the form of an electronic record, as defined in s. 137.11 (7) and, if a signature is required, on acceptance of an electronic signature, as defined in s. 137.11 (8).

(b) The department may by rule provide for registration of a professional employer organization or professional employer group without compliance with sub. (2), (4), (5), or (6), s. ~~461.03~~ 202.23, or rules promulgated under s. ~~461.06~~ ^{202.095 or} 202.26 on acceptance by the department of assurance, provided by a bonded, independent, and qualified assurance organization that has been approved by the department, ~~that provides assurance~~ satisfactory to the department that the professional employer organization or professional employer group is qualified to operate as a professional employer organization or a professional employer group in this state.

(c) This subsection does not limit the authority of the department to require a professional employer organization or professional employer group to register as provided in sub. (2), (4), (5), or (6), to maintain proof of financial capability as required under s. ~~461.03~~ ^{202.095 or} 202.23, or to comply with this ^{Plain} ~~chapter~~ ^{subchapter} and the rules promulgated under s. ~~461.06~~ ^{202.095 or} 202.26; to investigate an applicant or registrant and deny registration or renewal registration under sub. (8), or to investigate an applicant, registrant, or controlling person and take disciplinary action under s.

~~461.05~~ ^{202.06} 202.25

SECTION 70. 461.02 (8) of the statutes is renumbered 202.22 (8) and amended to read:

202.22 (8) ISSUANCE OF REGISTRATION. The department shall investigate each applicant or registrant who submits to the department an application for registration or registration renewal under this section, together with the applicable registration or registration renewal fee, to determine whether the applicant or

1 registrant is qualified for registration or for renewal registration. Except as provided
2 in ~~s. 440.12 and 440.13~~ ss. 202.03 and 202.035, the department shall issue a
3 registration or renewal registration if, after completing the investigation, the
4 department determines that the applicant or registrant meets the ^{applicable} requirements ^{202.095 or}
5 under this ~~chapter~~ ^{plain} ~~subchapter~~ and rules promulgated under s. ~~461.06~~ ^{202.095 or} ~~202.26~~ for
6 issuance or renewal of a registration and is satisfied that the applicant or registrant
7 will comply with this ~~chapter~~ ^{plain} ~~subchapter~~ and those rules.

8 SECTION 71. 461.02 (9) of the statutes is renumbered 202.22 (9).

9 SECTION 72. 461.03 of the statutes is renumbered 202.23 and amended to read:

10 **202.23 Financial capability.** Except as provided in s. ~~461.02~~ ^{202.22} ~~202.22~~ (5) (e)

11 or (7) (b), a professional employer organization or professional employer group shall
12 maintain one of the following:

13 (1) WORKING CAPITAL REQUIREMENT. Working capital, as defined by generally
14 accepted accounting principals, of not less than \$100,000, as shown in the financial
15 statement submitted to the department under s. ~~461.02~~ ^{202.22} ~~202.22~~ (2) (f) 1., (4), or (6).
16 If a professional employer organization or professional employer group has less than
17 \$100,000 in working capital, the department may issue a registration or renewal
18 registration contingent on the registrant meeting the working capital requirement
19 of this subsection no later than 180 days after the issuance of the registration or
20 renewal registration. During the period of contingent registration, the registrant
21 shall submit quarterly financial statements to the department accompanied by an
22 attestation by the chief executive officer of the registrant that all wages, salaries,
23 employee benefits, worker's compensation insurance premiums, payroll taxes,
24 unemployment insurance contributions, and other amounts that are payable to or

1 with respect to an employee of the registrant performing services for a client were
2 paid by the registrant when due.

3 (2) ALTERNATIVE COMMITMENT. A bond, certificate of deposit, escrow account, or
4 irrevocable letter of credit in an amount that is not less than \$100,000 or, if the
5 financial statement submitted to the department under s. ~~461.02~~ ^{202.22} (2) (f) 1., (4),
6 or (6) indicates a deficit in working capital, a bond, certificate of deposit, escrow
7 account, or irrevocable letter of credit in an amount that is not less than \$100,000
8 plus an amount that is sufficient to cover that deficit. The commitment described in
9 this subsection shall be in a form approved by the department, shall be held in a
10 depository designated by the department, and shall secure the payment by the
11 professional employer organization or professional employer group of any wages,
12 salaries, employee benefits, worker's compensation insurance premiums, payroll
13 taxes, unemployment insurance contributions, or other amounts that are payable to
14 or with respect to an employee performing services for a client if the professional
15 employer organization or professional employer group does not make those
16 payments when due. The commitment shall be established in favor of or be made
17 payable to the department, for the benefit of the state and any employee to whom or
18 with respect to whom the professional employer organization or professional
19 employer group does not make a payment described in this subsection when due. The
20 professional employer organization or professional employer group shall file with the
21 department any agreement, instrument, or other document that is necessary to
22 enforce the commitment against the professional employer organization or
23 professional employer group, or against any relevant 3rd party, or both.

24 SECTION 73. 461.04 of the statutes is renumbered 202.24, and 202.24 (3), as
25 renumbered, is amended to read:

202.24 (3) LICENSING. Nothing in this ~~chapter~~ subchapter or in any contract for the provision of the nontemporary, ongoing workforce of a client may be construed to affect or impair any federal, state, or local licensing, registration, or certification requirement that is applicable to a client or to an employee performing services for a client.

repealed

6 SECTION 74. 461.05 of the statutes is renumbered 202.25, and 202.25 (1), (2)

(intro.), (a), (b) and (d), (4) and (5), as renumbered, are amended to read:

202.25 (1) INVESTIGATIONS. ~~Subject to the rules promulgated under s. 440.03 (1), the~~ The department may conduct investigations and hearings to determine whether a violation of this ~~chapter~~ subchapter or any rule promulgated under s. 461.06 202.26 has occurred.

(2) DISCIPLINARY ACTION. (intro.) ~~Subject to the rules promulgated under s. 440.03 (1), the~~ The department may reprimand a professional employer organization or professional employer group or deny, limit, suspend, revoke, restrict, refuse to renew, or otherwise withhold a registration if the department finds that an applicant, registrant, or controlling person has done any of the following:

(a) Conducted any of the activities specified in s. 461.02 202.22 (1) without first registering with the department as provided in s. 461.02 202.22.

(b) Knowingly made a material misrepresentation or false statement in an application for registration or for renewal of a registration under s. 461.02 202.22 or in a report under s. 108.067.

(d) Willfully committed a violation of this ~~chapter~~ subchapter or of a rule promulgated under s. 461.06 202.26.

(4) INJUNCTION. If it appears upon complaint to the department ~~by any person~~ or it is known to the department otherwise knows that any person is violating has

~~violated this chapter subchapter, the department or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring action in the name of and on behalf of the state against any such that person to enjoin such the person from such committing further violations of this subchapter.~~

~~(5) JUDICIAL REVIEW. Any person who is aggrieved by any action taken under this chapter subchapter by the department, its officers, or agents may apply for judicial review as provided in ch. 227.~~

SECTION 75. 461.06 of the statutes is renumbered 202.26, and 202.26 (intro.),

(1), (2) and (3), as renumbered, are amended to read:

202.26 Rules. (intro.) The department ^{rules the} ~~shall promulgate rules to~~ implement this chapter subchapter. ^{Those rules} ~~shall include rules providing for all of the~~ following: _{move}

(1) Alternative registration of professional employer organizations under s. ~~461.02~~ 202.22 (7) (a) and (b).

~~(2) Reasonable fees for any service provided under this chapter subchapter that do not exceed an amount that is necessary to cover the cost of providing that service.~~

(3) Minimum requirements for issuance or renewal of a registration under s. ~~461.02~~ 202.22 (8).

SECTION 76. 461.10 of the statutes is renumbered 202.29 and amended to read:

202.29 Short title. This chapter subchapter shall be known as the "Wisconsin Professional Employer Organizations Act."

SECTION 77. 635.02 (7) (b) 3. of the statutes is amended to read:

635.02 (7) (b) 3. A professional employer organization, as defined in s. 461.01 202.21 (5), or a professional employer group, as defined in s. 461.01 202.21 (4), that

Renumbered under s. 202.095 that

1 provides health care benefits to more than 50 employees performing services for a
2 client, as defined in s. ^A~~461.01~~ 202.21 (2).

3 **SECTION 9138. Nonstatutory provisions; Safety and Professional**
4 **Services.**

5 (1) TRANSFER OF REGULATION OF CHARITABLE ORGANIZATIONS, FUND-RAISING
6 COUNSEL, PROFESSIONAL FUND-RAISERS, PROFESSIONAL EMPLOYER ORGANIZATIONS, AND
7 PROFESSIONAL EMPLOYER GROUPS.

8 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
9 liabilities of the department of safety and professional services primarily related to
10 the regulation of charitable organizations, fund-raising counsel, professional
11 fund-raisers, professional employer organizations, and professional employer
12 groups, as determined by the secretary of administration, shall become the assets
13 and liabilities of the department of financial institutions.

14 (b) *Tangible personal property.* On the effective date of this paragraph, all
15 tangible personal property, including records, of the department of safety and
16 professional services that is primarily related to the regulation of charitable
17 organizations, fund-raising counsel, professional fund-raisers, professional
18 employer organizations, and professional employer groups, as determined by the
19 secretary of administration, is transferred to the department of financial
20 institutions.

21 (c) *Contracts.* All contracts entered into by the department of safety and
22 professional services in effect on the effective date of this paragraph that are
23 primarily related to the regulation of charitable organizations, fund-raising counsel,
24 professional fund-raisers, professional employer organizations, and professional
25 employer groups, as determined by the secretary of administration, remain in effect

including any unencumbered moneys from fees the department
of safety and professional services has collected from
charitable organizations, fund-raising counsel, professional
fund-raisers, professional employer organizations, and professional
employer groups.

1 and are transferred to the department of financial institutions. The department of
2 financial institutions shall carry out any obligations under such a contract until the
3 contract is modified or rescinded by the department of financial institutions to the
4 extent allowed under the contract.

5 (d) *Employee transfers.* On the effective date of this paragraph, all positions,
6 and the incumbent employees who hold those positions, in the department of safety
7 and professional services with duties that are primarily related to the regulation of
8 charitable organizations, fund-raising counsel, professional fund-raisers,
9 professional employer organizations, and professional employer groups, as
10 determined by the secretary of administration, are transferred to the department of
11 financial institutions.

12 (e) *Employee status.* Employees transferred under paragraph (d) have all the
13 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
14 statutes in the department of financial institutions that they enjoyed in the
15 department of safety and professional services immediately before the transfer.
16 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
17 has attained permanent status in class is required to serve a probationary period.

18 (f) *Rules and orders.* All rules promulgated by the department of safety and
19 professional services that relate to the regulation of charitable organizations,
20 fund-raising counsel, professional fund-raisers, professional employer
21 organizations, and professional employer groups, that are in effect on the effective
22 date of this paragraph, remain in effect until their specified expiration dates or until
23 amended or repealed by the department of financial institutions. All orders issued
24 by the department of safety and professional services relating to the regulation of
25 charitable organizations, fund-raising counsel, professional fund-raisers,

professional employer organizations, and professional employer groups that are in effect on the effective date of this paragraph remain in effect until their specified expiration dates or until modified or rescinded by the department of financial institutions.

(g) *Pending matters.* Any matter pending with the department of safety and professional services on the effective date of this paragraph that is primarily related to the regulation of charitable organizations, fund-raising counsel, professional fund-raisers, professional employer organizations, and professional employer groups, as determined by the secretary of administration, is transferred to the department of financial institutions and all materials submitted to or actions taken by the department of safety and professional services with respect to the pending matters are considered as having been submitted to or taken by the department of financial institutions.

(h) *Fees.* All fees for initial registrations and renewals of registrations under subchapter IV of chapter 440 of the statutes and under chapter 461 of the statutes that are in effect on the day before the effective date of this paragraph shall remain in effect until modified by the department of financial institutions under section 202.08 of the statutes, as created by this act.

SECTION 9438. Effective dates; Safety and Professional Services.

(1) REGULATION OF CHARITABLE ORGANIZATIONS, FUND-RAISING COUNSEL, PROFESSIONAL FUND-RAISERS, PROFESSIONAL EMPLOYER ORGANIZATIONS, AND PROFESSIONAL EMPLOYER GROUPS. The amendment of sections 54.15 (8) (a) 3., 73.0301 (1) (d) 6., 108.02 (21e) (intro.), 125.06 (11), 134.73 (1) (a) and (c), 165.825, 181.0203 (3), 196.208 (5p) (a) 1., 321.60 (1) (a) 12., 440.03 (7m), 440.05 (intro.), and 635.02 (7) (b) 3. of the statutes, the repeal of sections 440.03 (13) (b) 29., 57m., and 58., 440.08

#autoref pumpkin (if not already there)

1 (2) (a) 23m., 35m., 63p., and 63t., ^{440.475} and 461.02 (3) and (5) (b) and (c) of the statutes,
2 the renumbering of chapter 461 (title), subchapter IV (title) of chapter 440, and
3 sections 440.41 ^(intro.) (1), (2) (intro.) and (a), (4), (8), (9) (intro.), (a), and (d) 1., 2., and 3.,
4 and (10), 461.02 (title), (5) (title) and (d), and (9), of the statutes, the renumbering
5 and amendment of sections 440.41 (2) (b), (3), (5), (6), (7), and (9) (b), (c), and (d)
6 (intro.), 440.42, 440.43, 440.44, 440.45, 440.455, 440.46, 440.47, 440.475, 440.48,
7 461.01, 461.02 (1), (2), (4), (5) (a) and (e), (6), (7), and (8), 461.03, 461.04, 461.05,
8 461.06, and 461.10 of the statutes, the creation of chapter 202 and sections 45.44 (1)
9 (a) 11m., 46.90 (5m) (br) 5g., ^{and} 49.857 (1) (d) 14m. of the statutes, and SECTION 9138
10 (1) of this act take effect on October 1, 2013, or on the first day of the 4th month
11 beginning after publication, whichever is later.
12

(END)

and 55.043 (4)(b) 5g.

A.R. pumpkin (if not already there)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0221/P2ins
MPG:cjs:rs

1 **ANALYSIS INSERT**

 [No paragraph, merge with text] Under the bill, DFI may conduct investigations and hold hearings to determine whether any person has violated the laws DFI administers under the bill. In addition to any disciplinary action DFI may take against a registrant or applicant for registration, a person who violates the laws DFI administers under the bill may be subject to an injunction or criminal penalties.

2 **END ANALYSIS INSERT**

3 **INSERT 8-11**

4 **(7)** The department may require the electronic submission of an application for
5 registration or registration renewal or any other document or information that may
6 be submitted to the department under this chapter.

7 **END INSERT 8-11**

8 **INSERT 12-23**

9 [no paragraph, merge with text] **(1) INVESTIGATIONS.** The department may
10 conduct investigations and hold hearings to determine whether any person has
11 violated this chapter or any rule promulgated under this chapter.

12 **(2) DISCIPLINARY ACTION.** The department may reprimand a registrant or deny,
13 limit, suspend, revoke, restrict, refuse to renew, or otherwise withhold a registration
14 if the department finds that an applicant, registrant, or controlling person has done
15 any of the following:

16 (a) Made a material misrepresentation or false statement in an application for
17 registration or registration renewal or in any other information submitted to the
18 department or in a report under s. 108.067. ✓

19 (b) Violated this chapter or a rule promulgated under this chapter.

20 **(3) FORFEITURE.** In addition to or in lieu of a reprimand or a denial, limitation,
21 suspension, revocation, restriction, nonrenewal, or other withholding of a

1 registration under sub. (2)✓, the department may assess against an applicant,
2 registrant, or controlling person a forfeiture of not more than \$1,000 for each
3 violation.

4 (5) INJUNCTION. If it appears upon complaint to the department or the
5 department otherwise knows that any person has violated this chapter, the
6 department or the district attorney of the proper county may investigate and may,
7 in addition to any other remedies, bring action in the name of and on behalf of the
8 state against that person to enjoin the person from committing further violations of
9 this chapter.

10 (6) PRACTICE WITHOUT A REGISTRATION. (a) If, after holding a public hearing, the
11 department determines that a person has engaged in a practice or used a title
12 without a required registration, the department may issue a special order enjoining
13 the person from continuing the practice or use of the title.

14 (b) In lieu of holding a public hearing, if the department has reason to believe
15 that a person has engaged in a practice or used a title without a required registration,
16 the department may petition the circuit court for a temporary restraining order or
17 an injunction as provided in ch. 813.

18 (c) 1. Any person who violates a special order issued under par. (a)✓ may be
19 required to forfeit not more than \$10,000 for each offense. Each day of continued
20 violation constitutes a separate offense. The attorney general or any district
21 attorney may commence an action in the name of the state to recover a forfeiture
22 under this subdivision.✓

23 2. Any person who violates a temporary restraining order or an injunction
24 issued by a court upon a petition under par. (b)✓ may be fined not less than \$25 nor
25 more than \$5,000 or imprisoned for not more than one year in the county jail or both.

1 (7) JUDICIAL REVIEW. Any person who is aggrieved by any action taken under
2 this chapter by the department, its officers, or agents may apply for judicial review
3 as provided in ch. 227.

4 END INSERT 12-23 [no paragraph, merge with text]

5 INSERT 16-25

6 **202.095 Rules.** The department shall promulgate rules to implement this
7 chapter.

8 END INSERT 16-25

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0221/P2dn

MPG:cjs/rs

ESAC

- date -

Brian:

Please review this draft carefully to ensure that it is consistent with the intent.

Among the other requested changes, this redraft consolidates DFI's enforcement provisions under s. 202.06 in the draft. As a result, this redraft eliminates certain enforcement provisions that appeared under subchs. II and III of ch. 202 in the previous draft. Please note, however, that the draft does not eliminate the enforcement provisions under ss. 202.17 (440.47 under current law) and 202.18 (440.48 under current law) because those provisions primarily concern the powers of DOJ with respect to violations of the laws governing the solicitation of funds for a charitable purpose. Is that okay?

Please let me know if you have any questions.

Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0221/P2dn
MPG:cjs&sac:rs

February 5, 2013

Brian:

Please review this draft carefully to ensure that it is consistent with the intent.

Among the other requested changes, this redraft consolidates DFI's enforcement provisions under s. 202.06 in the draft. As a result, this redraft eliminates certain enforcement provisions that appeared under subchs. II and III of ch. 202 in the previous draft. Please note, however, that the draft does not eliminate the enforcement provisions under ss. 202.17 (440.47 under current law) and 202.18 (440.48 under current law) because those provisions primarily concern the powers of DOJ with respect to violations of the laws governing the solicitation of funds for a charitable purpose. Is that okay?

Please let me know if you have any questions.

Thank you.

Michael Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

Gallagher, Michael

From: Quinn, Brian D - DOA <Brian.Quinn@wisconsin.gov>
Sent: Wednesday, February 06, 2013 11:10 AM
To: Gallagher, Michael
Subject: RE: Re: DSPS to DFI Transfer

Mike,

One change we're making, and this is a change to DFI's intent, is that the fees set for these applications and renewals should be subject to JCF review like they are currently for DSPS.

Let me know if you need additional information on this front.

From: Gallagher, Michael [<mailto:Michael.Gallagher@legis.wisconsin.gov>]
Sent: Tuesday, February 05, 2013 7:10 PM
To: Quinn, Brian D - DOA
Subject: RE: Re: DSPS to DFI Transfer

Right. That language should have gone in the first draft but was mistakenly omitted; so I added it to the redraft. Any amounts DSPS is holding that are credited from fees from the relevant professions (in fact, any assets at all primarily related to DSPS's regulation of those professions, as determined by the secretary of administration) transfer to DFI on the effective date.

Mike Gallagher

Attorney

Wisconsin Legislative Reference Bureau

From: Quinn, Brian D - DOA [<mailto:Brian.Quinn@wisconsin.gov>]
Sent: Tuesday, February 05, 2013 5:26 PM
To: Gallagher, Michael
Subject: Re: DSPS to DFI Transfer

Mike,

I just wanted to verify, does this language below mean for FY14 that the fees collected by DSPS will transfer to DFI in FY14?

(a) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department of safety and professional services primarily related to the regulation of charitable organizations, fund-raising counsel, professional fund-raisers, professional employer organizations, and professional employer groups, as determined by the secretary of administration, including any unencumbered moneys from fees the department of safety and professional services has collected from charitable organizations, fund-raising counsel, professional fund-raisers, professional employer organizations, and professional employer groups, shall become the assets and liabilities of the department of financial institutions.

This was the intention and I just wanted to verify that the language did this. This was to avoid a situation in which the fees related to these provisions would just sit at DSPS and effectively other fees that DFI collects from different entities would support the new expenditures.

Thanks!

Brian Quinn
Executive Policy and Budget Analyst
Wisconsin Department of Administration
Division of Executive Budget and Finance
(608)-266-1923
Brian.Quinn@wisconsin.gov